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INCOME TAX.

SPEECH

OF

HON. JOHN SCOTT,

OF PENNSYLVANIA,

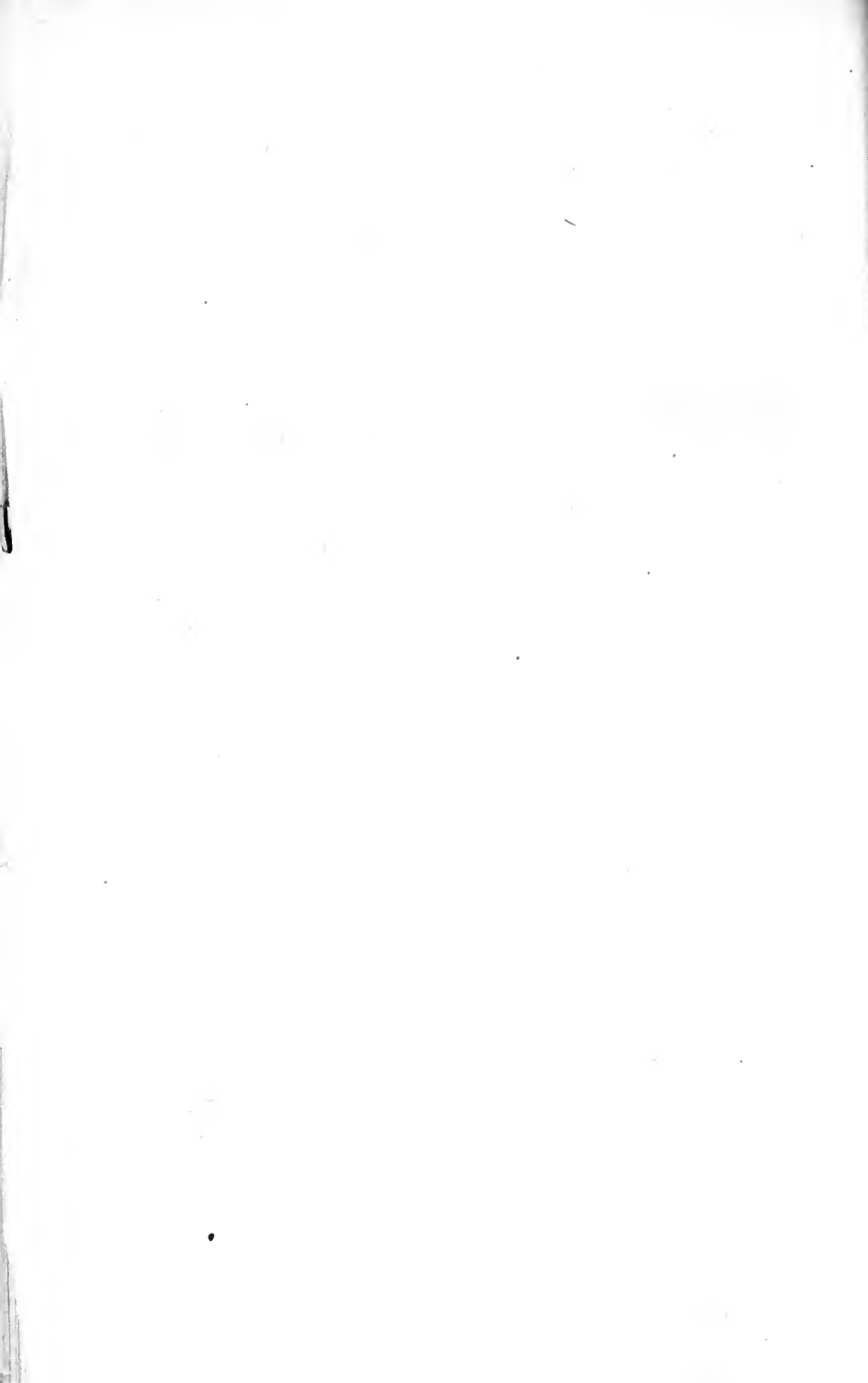
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INCOME TAX.

The Senate having under consideration the bill (H. R. No. 2045) to reduce internal taxes, and for other purposes—

Mr. SCOTT said :

Mr. PRESIDENT: At this late day in the session I do not propose to make any extended argument on the question involved in this motion. It has heretofore to some extent been the subject of discussion in the Senate; but there are some views of this question to which I deem it proper to turn attention for a few moments, and I do not propose, as I have already said, to occupy much of the time of the Senate in doing so.

The first thing to which I call attention is the language of the act imposing the income tax, for it is very nearly the same in the bill now reported by the Finance Committee that it was in the act which has expired. The tax is imposed "on the gains, profits, and income of every person residing in the United States, or of any citizen of the United States residing abroad, whether derived from any kind of property, rents, interest, dividends, or salaries, or from any profession, trade, employment, or vocation, carried on in the United States or elsewhere, or from any other source whatsoever, a tax of five per cent. on the amount so derived over \$1,000." This is now proposed to be changed by making it a tax of three per cent. on all over \$2,000.

The first question presented by this act is whether this is or is not a direct tax. I do not propose, as I have already said, to weary the Senate with a legal argument upon that question, but to call attention to the decisions which have been made upon it, and to the fact that those decisions have been based upon what is termed the history of that clause of the Constitution referring to direct taxation: and I shall, instead of making a legal argument, cite

some historical authorities in opposition to the historical authority upon which these judicial decisions have been based.

There have been three cases in which the question, what is a direct tax under the Constitution of the United States? have been considered. They are: "Hylton vs. The United States," reported in 3 Dallas, 171, and decided in 1796; the case of "The Pacific Insurance Company vs. Soule," reported in 7 Wallace, 434, and decided in 1868; and the *Veazie Bank vs. Fenno*, reported in 8 Wallace, 533, decided in 1869; the latter two under the income tax law which expired in 1870.

The first case decided that a tax upon carriages was not a direct tax; the second, that a tax upon the business and profits of an insurance company is not a direct tax; and the third, that the tax of ten per cent. upon all State banks is not a direct tax. The reasoning and references cited in the opinions in these cases would indicate it also as the opinion of the judges that the words "direct taxes" used in the Constitution comprehend only capitation taxes and taxes on land, and perhaps taxes on personal property by general valuation and assessment of the various description possessed within the several States. This is founded upon the historical authority of Judge Patterson, one of the judges of the Supreme Court at the time the case in 3 Dallas was decided, and a member of the Convention which formed the Constitution. He is quoted in the late cases as to what were intended to be the objects of direct taxation. I oppose to this authority of Judge Patterson, as quoted in these cases, the authority of men as eminent as he, and as well qualified by their participation in the constitutional convention and in the State conventions which adopted it to be quoted as historical authority as he.

In the Virginia convention the authority

lay direct taxes was attacked by Patrick Henry and those who acted with him as one of the most objectionable and vulnerable points in the Federal Constitution. They insisted upon substituting the requisitions upon the States, which had been resorted to under the Confederation, and Mr. Henry proposed that the Constitution should be so amended as to authorize requisitions first, and then, if not complied with, a levy of direct taxes. In the whole discussion, and in the proposed amendments, as I will hereafter show, no other taxes were thought of or spoken of than the two classes—direct taxes and the duties, imposts and excises. Other indirect taxes than these are nowhere mentioned; but, on the contrary, other direct taxes than those on lands and a capitation tax are directly asserted to be authorized, and this, too, by the advocates of the Constitution in seeking to disarm the objections of its opponents when attacking the power to levy direct taxes.

Before quoting them, however, let me suggest how improbable it is that men so careful of the phraseology used in their work as were the members of the constitutional convention would have used the term "capitation and other direct taxes" if it had been clearly understood that direct taxes were to be confined to capitation taxes and taxes upon land. If there were to be but two classes they would not have named the one and used the indefinite phrase "other direct taxes;" they would have said at once "no capitation or land tax shall be laid unless in proportion to the census," &c.

I now proceed to show how this subject was viewed by those whom we have been accustomed to call the fathers of the Constitution. When the clauses of the Constitution providing for raising a national revenue came to be considered in the Virginia convention, in the whole discussion it was taken for granted that the gradual establishment of manufactures would so diminish the duties received from imports as to render necessary a resort to other taxation, and direct taxation was the only kind spoken of. I now quote, that I may be accurate upon this subject, the debates in the Virginia convention when this matter was before them in the light I have already referred to. On page 77 of those debates Mr. Madison makes use of these words:

"Let us consider the most important of these reprobated powers; that of direct taxation is most generally objected to. With respect to the exigencies of Government there is no question but the most easy mode of providing for them will be adopted. When, therefore, direct taxes are not necessary, they will not be resorted to. It can be of little advantage to those in power to raise money in a manner oppressive to the people. To consult the conveniences of the people will cost them nothing, and in many respects will be advantageous to them. Direct taxes will only be resorted to for great purposes."

No other allusion is made here to any other than direct taxes, the duties, imposts, and excises being out of consideration at that time.

I proceed to page 220 of the same debates, and there he uses this language:

"The gentlemen who favored us with their observations on this subject seemed to have reasoned on a supposition that the General Government was confined by the paper on your table to lay general uniform taxes. Is it necessary that there should be a tax on any given article throughout the United States? It is represented to be oppressive, that the States who have slaves and make tobacco should pay taxes on these for Federal wants, when other States who have them not would escape. But does the constitution on the table admit of this? On the contrary, there is a proportion to be laid on each State according to its population. The most proper articles will be selected in each State. If one article in any State should be deficient it will be laid on another article. Our State is secured on this foundation. Its proportion will be commensurate to its population. This is a constitutional scale which is an insuperable bar against disproportion, and ought to satisfy all reasonable minds. If the taxes be not uniform, and the Representatives of some States contribute to lay a tax of which they bear no proportion, is not this principle reciprocal?"

I call attention to the fact that although upon the authority of Judge Patterson, as a member of the Convention which formed the Constitution, it was held that a tax upon carriages was not a direct tax, in this debate James Madison directly asserts that a tax upon tobacco would be a direct tax, and would be apportioned as provided for in the Constitution.

Now, sir, when you take into consideration that this law proposes to lay a tax upon all rents, when you take the language of Judge Patterson in that very case in which he says that the product of the land is to be treated as the land itself, and when you go further, and bring to your recollection the fact that in most of the agricultural States the rents of farms are paid in kind, I should like to have the distinction pointed out between the tax upon tobacco, the product of a northern or a southern plantation, and a tax upon rents which are paid in wheat or corn or any other production of the land.

I have said that I am using this as an historical authority, not as a legal argument; but the opinion, which is made the basis of all subsequent opinions, in the case in 3 Dallas, goes upon the ground that a tax upon carriages is not a direct tax, and that is based upon the historical authority of Judge Patterson, and I quote against it the authority of James Madison in these debates to show that a tax imposed on tobacco would be a direct tax, and must be apportioned under the Constitution in proportion to the census.

On page 185 Mr. Madison reasserts the same doctrine, although not exactly in the same language, but quite as strongly:

"My honorable friend over the way, Mr. Monroe, yesterday seemed to conceive, as an insuperable objection, that if land were made the particular object of taxation, it would be unjust, as it would exonerate the commercial part of the community; that if it were laid on trade, it would be unjust in discharging the land-holders; and that any exclusive selection would be unequal and unfair. If the General Government were tied down to one object, I confess

the objection would have some force in it. But if this be not the case, it can have no weight. If it should have a general power of taxation, they could select the most proper objects, and distribute the taxes in such a manner as that they should fall in a due degree on every member of the community. They will be limited to fix the proportion of each State, and they must raise it in the most convenient and satisfactory manner to the public."

I now proceed to quote language which if it had been used upon the bench would have settled this as law forever; but it can have little less weight when it is remembered that it was used in the deliberations of the Virginia convention when they were considering the adoption of the Constitution and endeavoring to remove the objections which were made to it. I read the language of John Marshall in the Virginia convention, page 168:

"It is objected that Congress will not know how to lay taxes so as to be easy and convenient for the people at large. Let us pay strict attention to this objection. If it appears to be totally without foundation the necessity of levying direct taxes will obviate what gentlemen say, nor will there be any color for refusing to grant the power. The objects of direct taxes are well understood; they are but few; what are they? Lands, slaves, stock of all kinds, and a few other articles of domestic property. Can you believe that ten men selected from all parts of the State, chosen because they know the situation of the people, will be unable to determine so as to make the tax equal on and convenient for the people at large?"

There, Mr. President, is an authority in direct opposition to the assertion in the case in 3 Dallas, that the only direct taxes intended to be authorized by the Constitution were the capitation tax and the tax upon lands, for this language is, "lands, slaves, stock of all kinds, and a few other articles of domestic property." In other words, a tax upon land, or a tax upon any personal property, would be a direct tax, and would have to be apportioned under the Constitution.

George Nicholas, on page 177, makes use of this language:

"Another argument made use of is, that ours is the largest State, and must pay in proportion to the other States. How does that appear? The proportion of taxes is fixed by the number of inhabitants, and not regulated by the extent of territory or fertility of soil. If we be wealthier in proportion than the other States, it will fall lighter upon us than upon poorer States. They must fix the taxes so that the poorest State can pay, and Virginia, being richer, will bear it easier."

Here, in considering this question of taxation, uniformity, equality was evidently in the minds of all these men who were deliberating upon the adoption of the Constitution, and in considering this very clause Mr. Nicholas says "they must fix the taxes so that the poorest State can pay, and Virginia, being richer, will bear it easier." And this, too, considering the question of taxation as between the direct tax and indirect taxes, the only ones authorized by the Constitution.

I proceed further, on page 178:

"Representatives and direct taxes shall be apportioned among the several States which may be in-

cluded within this Union, according to their respective numbers." Each State will know from its population its proportion of any general tax. As it was justly observed by the gentleman over the way, [Governor Randolph,] they cannot possibly exceed that proportion; they are limited and restrained expressly to it."

"Any general tax" is the language here; and in considering a tax of that character the language of the Constitution is considered as expressly applicable to it.

I now refer the Senate to the opinion of Mr. Grayson, on page 206:

"Gentlemen were obliged to give up the point with respect to general uniform taxes. They have the candor to acknowledge that taxes on slaves would not affect the eastern States, and that taxes on fish or potash would not affect the southern States. They are then reduced to this dilemma. In order to support this part of the system they are obliged to controvert the first maxims of representation. The best writers on this subject lay it down as a fundamental principle that he who lays a tax should bear his proportion of paying it. A tax that might with propriety be laid and with ease collected in Delaware might be highly improper in Virginia."

Governor Pendleton, on page 216, says:

"We have hitherto paid more than our share of taxes for the support of the Government, &c. But by this system we are to pay our equal ratable share only. Where is the danger of confiding in our Federal Representatives? We must choose those in whom we can put the greatest confidence. They are only to remain two years in office. Will they in that time lose all regard for the principles of honor and their character, and become abandoned prostitutes of our rights? I have no such fear. When power is in the hands of my Representatives, I care not whether they meet here or one hundred miles off."

"A gentleman [Mr. Monroe] has said that the power of direct taxation was unnecessary, because the impost and back lands would be abundantly sufficient to answer all Federal purposes. If so, what are we disputing about? I ask the gentleman who made the observation and this committee if they believe that Congress will lay direct taxes if the other funds are sufficient? It will then remain a harmless power upon paper, and do no injury."

I now proceed to make a quotation which bears not only upon the character of this as a direct tax, but also upon the inequality of the tax, and I wish to show the view which was taken by the framers of the Constitution, by those who were considering its adoption, as to the effects of a direct tax, and as to the measures which would be justified on the part of the people if there were to be any other than equal and uniform taxation under the Federal Constitution. I quote the language of Governor Randolph, pages 94, 95:

"The difficulty of justly apportioning the taxes among the States under the present system has been complained of; the rule of apportionment being the value of all lands and improvements within the State, the inequality between the rich lands of James river and the barrens of Massachusetts has been thought to militate against Virginia. If taxes could be laid according to the real value, no inconvenience could follow; but from a variety of reasons this value was very difficult to be ascertained; and an error in the estimation must necessarily have been oppressive to a part of the community. But in this new constitution there is a more just and equitable rule fixed, a limitation beyond which they cannot go. Representatives and taxes go hand in hand; according to

the one will the other be regulated. The number of Representatives is determined by the number of the inhabitants: they have nothing to do but to lay taxes accordingly. I will illustrate it by a familiar example. At present, before the people are actually numbered, the number of Representatives is sixty-five; of this number Virginia has a right to send ten; consequently, she will have to pay ten parts out of sixty-five parts of any sum that may be necessary to be raised by Congress. This, sir, is the line. Can Congress go beyond the bounds prescribed in the Constitution? Has Congress a power to say that she shall pay fifteen parts out of sixty-five parts? Were they to assume such a power, it would be a usurpation so glaring that rebellion would be the immediate consequence."

Now, Mr. President, I feel at liberty to speak upon this particular view of the subject, because upon comparing the income tax paid by the several States I find that, taking the proportion of the population of my own State, making it at about four millions, we pay, perhaps, our fair proportion of the income tax of the United States, taking the whole State together. But, when I look at other States, I find that the State of New York is exactly in the position, if not in a worse position, than the one given by way of illustration by Governor Randolph, in which he says that to impose a tax of that character, so as to make a State which would be entitled, for instance, to one tenth of the representation, to pay one fifth of the taxation, would justify rebellion. The State of New York—am I right in saying—has five million people?

Mr. CONKLING. Four million six hundred thousand.

Mr. SCOTT. The State of New York, with a population of four million six hundred thousand, very little more than one tenth of the population of the United States, pays thirty-one per cent. of the income tax. With thirty-one Representatives out of two hundred and thirty-three I believe she pays very nearly a third of all the income tax of the United States. In considering this very question Governor Randolph, in the Virginia convention, citing the representation of Virginia at that time in Congress, and the proportion that would be levied upon her, says that if Congress were to undertake to impose any other rule in any general tax that would be imposed upon the United States it would be a case that would justify rebellion. I trust, sir, that no one here will advocate rebellion; I will not. I trust that when we come to look at this question fairly in the Senate the inequality, the injustice, and the demoralizing character of this tax will be so apparent that the States which are called upon to pay the least of it will be the first to come up unanimously and say that they do not ask that others shall bear a burden which should be equally apportioned.

Now, Mr. President, I go one step further in this historical argument. Having traced the legal decisions to an historical basis, I have quoted these opinions against it. That the

light in which I have been viewing it was the light in which the people and the convention viewed it is further evident from the language of all the States which proposed amendments. I have already referred to the fact that Patrick Henry proposed that requisitions should be first made on the States, and after the requisitions were disregarded, then direct taxation might be resorted to. Now, keeping that in view, let us look at these facts. Delaware, New Jersey, Pennsylvania, and Georgia ratified unconditionally. But now turn to the journal of the Federal Convention—I will not weary the Senate by reading from it, but I refer members to it—and in that journal we find on page 403 that Massachusetts requests that "Congress do not lay direct taxes, but when the moneys arising from the impost and excise are insufficient for the public exigencies."

I have already called attention to the fact that in all these debates there were but two classes of taxation considered: first, the imposts, the duties, the excises; and second, the direct taxes. There is no allusion in any part of these debates to any other indirect tax than the imposts, duties, and excises. There were only two classes of taxation in the view of the Convention which formed the Constitution and of the conventions which adopted the Constitution—direct taxes, which Judge Marshall said embraced "lands, slaves, stock of all kinds, and a few other articles of domestic property," and the other the imposts, the duties, and the excises.

Massachusetts said this; and South Carolina, New Hampshire, Virginia, New York, North Carolina, and Rhode Island all proposed and asked similar amendments to the Constitution of the United States; so that seven States, more than a majority of all the States, took this view of the constitutional provision.

Now, Mr. President, having quoted this historical authority with regard to the question of whether this is or is not a direct tax, I now come to another view of it. If it is not a direct tax, it must be an indirect tax; and all the authorities from which I have quoted, wherever they speak of these two classes of taxes, where any particular tax is an indirect tax, apply the rule of uniformity.

In the case of *Veazie Bank vs. Fenno*, 8 Wallace, 546, Chief Justice Chase having quoted approvingly the statement of Judge Patterson in *Hylton vs. United States*, that the words "direct taxes," as used in the Constitution, comprehended only capitation taxes and taxes on land, proceeds:

"It follows necessarily that the power to tax without apportionment extends to all other objects. Taxes on other objects are included under the heads of taxes not direct, duties, imposts, and excises, and must be laid and collected by the rule of uniformity. The tax under consideration is a tax on bank circulation, and may very well be classed under the head of duties."

In *Hylton vs. United States*, 3 Dallas, 175, Judge Chase says:

"I think an annual tax on carriages for the conveyance of persons may be considered as within the power granted to Congress to lay duties. The term duty is the most comprehensive next to the generic term tax, and practically in Great Britain (whence we take our general idea of taxes, duties, imposts, excises, customs, &c.) embraces taxes on stamps, tolls for passage, &c., and is not confined to taxes on importation only."

In the same case, page 176, Patterson, J., says:

"For the term tax is the genus, and includes, first, direct taxes; second, duties, imposts, and excises; third, all other classes of an indirect kind, and not within any of the classifications enumerated under the preceding heads. The question occurs, how is such tax to be laid uniformly and apportionately? The rule of uniformity will apply because it is an indirect tax, and direct taxes only are to be apportioned."

Here, then, Mr. President, we have the opinions of the judges in these cases that where the tax is not direct, then the rule of apportionment not applying the rule of uniformity must apply. I am aware it will be answered that the rule is uniform in regard to this income tax; that is, the same rate is assessed all over the United States. But there must not only be uniformity in the rate, but there must be uniformity in the mode of assessment and in the objects of taxation and in the results.

I was somewhat surprised to hear the honorable Senator from Ohio, in the opening of this debate, or in the early part of the consideration of this bill, state that if we dropped the personal income tax and continued the tax upon corporations the tax on corporations would be unconstitutional. Why? If you may tax the income which a man's body and brains make out of his profession, after he has spent most of it in maintaining his wife and children, or in educating his children at college, if you may tax the income of the mechanic, the physician, or the lawyer, and leave untaxed the millionaire alongside of him who is owning thousands of acres of unproductive land, and deducting from his other incomes the very taxes that he pays on his productive and unproductive land; if you may tax the income of the one and leave untaxed the income of the other, how is it that you cannot drop the tax upon the personal income and put it upon the income of corporations?

Mr. SHERMAN. If my friend will allow me, I did not claim that we had the power to tax incomes derived from one source and not from another. I claimed that whatever tax we imposed upon incomes must be imposed upon all incomes, whether derived from lands, salaries, or professional services, and at the same rates.

Mr. SCOTT. If that be the Senator's position, that the tax which is imposed upon incomes must be imposed upon all incomes, where is the authority for beginning with one

or two thousand dollars? You must make it uniform.

Mr. SHERMAN. I explained the ground of the exemption, which is applicable to all citizens and to all sections. That is very obvious.

Mr. SCOTT. I propose to show that it is not applicable to all citizens or all sections.

[The hour for a recess having arrived, the honorable Senator gave way at this point.]

THURSDAY, June 23, 1870.

The Senate having resumed the consideration of the same subject,

Mr. SCOTT. Mr. President, when interrupted by the arrival of the hour for a recess yesterday I had proceeded so far as to indicate, rather than to make, an argument against the constitutionality of the income tax. Passing from that, I had taken up the question of the uniformity of this income tax, arguing that if it were not a direct tax, then, being an indirect tax, under the constitutional provision it should operate with uniformity throughout the United States.

Pursuing that argument, Mr. President, I desire now to call attention to the disparity that exists in the assessment and payment of the income tax in the several States of the Union. I do not propose to go over them all; but I have made a brief table for the purpose of calling attention to the contrast between the percentage of income tax paid by a number of the States and the percentage of real and personal estate in those States, as shown by the census of 1860, the last data accessible on that point. For the purpose of doing so I have selected several of the eastern States, joining with them two of the western States and one of the Pacific States.

I take Massachusetts, New York, Pennsylvania, Ohio, Illinois, California, and New Jersey, seven States of the Union, and in these seven States the income tax paid in the year 1869 was \$25,895,597 87. Of that Massachusetts paid eleven and eighteen hundredths per cent., New York paid thirty-one and thirty-three hundredths per cent., Pennsylvania paid eleven and seventy-one hundredths per cent., Ohio paid five and ninety-five hundredths per cent., Illinois paid six and eighty-four hundredths per cent., California paid three and seventy-nine hundredths per cent., and New Jersey paid four and eighty-one hundredths per cent.; making in these States seventy-five and sixty-one hundredths per cent. of the whole income tax paid in the United States.

The whole amount of income tax paid was \$34,229,893 32; and passing from the amount of income tax thus shown to have been paid; and the percentage of each State, I proceed to look at the population and at the real and personal estate in the same States, and I find that

they had in them of real and personal estate \$6,816,629,409. Their population was 13,106,852. The total valuation of all the States was \$16,159,616,000, and the total population 31,423,442. Thus we have, in the seven States I have selected for the purpose of illustration thirty-eight per cent., or about three eighths of the value, and two fifths or about forty per cent. of the population. We have it demonstrated that thirty-eight per cent. of the value and forty per cent. of the population of the Union pay seventy-five and sixty-one hundredths per cent. of the income tax. Thus there is no uniformity upon valuation, upon population, nor upon representation—the three vital elements of taxation in a republican country. I append the table:

Income tax, year ending June 30, 1890, as shown by the report of the Commissioner of Internal Revenue for 1889, pages 227 and 254.

States.	Tax.	Per cent. of the whole.
Massachusetts.....	\$3,827,897 96	11.23
New York.....	10,726,769 21	31.38
Pennsylvania.....	4,010,844 87	11.71
Ohio.....	2,089,588 99	5.95
Illinois.....	2,341,574 82	6.84
California.....	1,299,141 41	3.79
New Jersey.....	1,649,831 62	4.81
Total.....	\$25,895,597 87	75.61

Total income tax in all the States and Territories, \$34,229,893 32.

The preliminary report of the eighth census shows that the population and real and personal estate in those States in 1890 were—

States.	Real and personal estate.	Population.
Massachusetts.....	\$815,237,433	1,231,066
New York.....	1,843,338,517	3,889,735
Pennsylvania.....	1,416,501,818	2,906,115
Ohio.....	1,193,893,422	2,339,511
Illinois.....	871,869,282	1,711,951
California.....	207,874,613	365,439
New Jersey.....	467,913,324	672,035
Total.....	\$6,816,629,409	13,106,852

Total valuation in all the States and Territories in 1890 was.....\$16,159,616,000
Total population was.....31,423,442

I wish it to be borne in mind, too, that taking the whole internal revenue taxes paid by the same States, and they are in the following ratio: Massachusetts, six and forty-eight hundredths per cent.; New York, twenty-four and ninety-seven hundredths; Pennsylvania, ten and eighty-one hundredths; Ohio, eleven and twenty-six hundredths; Illinois, nine and thirteen hundredths; California, three and sixteen hundredths; New Jersey, two and sixty-one hundredths; making sixty-eight per cent. of all the internal revenue taxes that are paid in the United States. This shows its operation so far as its uniformity in the States is concerned.

Now let me come to congressional districts. I have selected twenty of them. Of these twenty districts, two in New York pay \$3,832,899 03; two in Pennsylvania pay \$1,709,-

151 26; one in Illinois pays \$1,686,602 75; and one in Massachusetts, \$1,052,788 41. These six districts in the United States pay \$8,281,431 45, or very nearly one fourth of the whole \$34,000,000 of income tax. Do taxation and representation go together? And yet six districts out of two hundred and thirty-three pay very nearly one fourth of this tax. These districts are as follows:

Eighth district of New York.....	\$2,457,037 03
First district of Illinois.....	1,686,602 75
Thirty-second district of New York.....	1,375,862 00
Third district of Massachusetts.....	1,052,788 41
First district of Pennsylvania.....	941,215 76
Third district of New York.....	926,752 46
Sixth district of New York.....	899,628 23
Fourth district of Massachusetts.....	847,509 02
Second district of Pennsylvania.....	767,935 50
Fifth district of New Jersey.....	765,563 85
First district of California.....	736,038 84
Third district of Maryland.....	616,047 23
First district of Missouri.....	572,623 09
First district of Rhode Island.....	544,725 00
Second district of New York.....	483,273 13
Fourth district of Pennsylvania.....	480,637 64
Ninth district of New York.....	478,642 91
Fourteenth district of New York.....	456,064 15
Eighteenth district of Ohio.....	456,004 63
Fifteenth district of New York.....	431,235 38

Total.....\$17,006,277 01

Do not let it be said that these are the eastern States, because the table to which I have referred will demonstrate to any one who will examine it that the States which have increased most rapidly in population and in valuation since the census of 1860 have been omitted, with perhaps the single exception of California.

Here are six districts, paying this amount of tax, and the whole twenty which I have selected pay \$17,627,000; six districts paying very nearly one fourth and twenty districts paying full one half of all the income tax paid in the United States. Is there any uniformity in that? The remaining two hundred and fifteen districts pay about as much as these twenty, and the disparity in these districts, as any one who will take the trouble to examine the tables in the report of the Commissioner of Internal Revenue will find, is so great that they range from \$100,000 down to \$1,000.

Now, sir, I proceed, after having stated the result in States and districts, to a few illustrations in regard to individuals; and they are but few, but they are such that every man in his own neighborhood can point to similar ones. They are not with me imaginary cases, and I deem it better to call the attention of the Senate and the country to this mode of taxation than to indulge in quotations from political economists on the effect of this income tax. I might read here from McCulloch and from John Stuart Mill, and from all the other eminent political economists, for the purpose of showing their opinions as to the operation of an income tax; but the illustration is far better to those who will recognize their originals in their own neighborhoods, who have the taxes to pay

and who are affected by the principle involved in the laws of the country, than the opinions of political economists.

Under the old law the exemption was \$1,000. The bill before us raises the exemption to \$2,000, and reduces the rate to three per cent. But I wish to call the attention of the Senate to the fact that the feeling which has been excited by the operation of that law cannot be allayed by any anodyne administered in the shape of a proposed amendment or reduction. I propose to look at one or two cases, which anybody can recognize as not imaginary ones, under the old law.

Take a clerk in one of the Departments of the Government who has a salary of \$2,000 per year. One thousand dollars is exempt, but there his exemption ceases, because when his salary is paid to him the income tax is deducted from the remaining thousand. If he pays two or three hundred dollars a year rent for his house, there is no deduction of that or of taxes for him. Take now, living alongside of him, an owner of real-estate in this city, who occupies for his dwelling a property worth \$40,000, and who has \$40,000 at interest. There is a property which in fact is worth to the owner \$2,400 a year at six per cent. interest. Six per cent. on his \$40,000 loaned brings him \$2,400 more. He has around this city a large number of town lots that he has purchased for the purpose of speculation, holding them until their increase in value will realize to him a profit, always holding them, too, until, under the present law, the two years have gone around within which he could be required to account for the profit made upon them.

When that man who has this \$40,000 of fixed capital in his house, \$40,000 of fixed capital at interest; and perhaps \$40,000 more in unproductive real estate, comes to pay his income tax what is the result? He pays nothing on the \$2,400 a year rent which his house is worth to him, and when he comes to put down the \$2,400 he gets in interest upon the \$40,000 of money he has loaned or on Government bonds, he deducts from that the taxes paid upon the \$40,000 house in which he lives, he deducts from it the tax upon the \$40,000 of unproductive lots; and thus, by the deduction of his taxation, he brings his income down below the clerk who gets \$2,000 a year, and in most instances swallows it up altogether. Besides, if he has bought his lands on speculation, and given a bond and mortgage for the payment and paid interest for the money, believing he could pay six per cent. on the money and realize twelve on the lots in the course of two years, he deducts the six per cent. interest he has paid out from the income that he gets on his own loaned capital. Thus in fact fixed capital brings down taxation to nothing, and the labor of the body and the brain of the clerk is taxed.

Mr. MORTON. Will the Senator allow me to ask him a question?

Mr. SCOTT. Certainly.

Mr. MORTON. I should like to ask him whether his illustration proves that an income tax is wrong in principle, or simply that this law is not perfect in its character and should be corrected so as to embrace the case described?

Mr. SCOTT. I will say to my friend that if a tax can be devised bearing upon property so that it is not a direct tax within the terms of the Constitution, which would have to be apportioned, if you can devise an income tax of that kind, then I would say it would not be objectionable in principle. But devised as this one is, and as you must devise it to get clear of the constitutional provision, you cannot make a tax on property in this country that will be equitable. This has been apparent in all the discussion upon this bill. The Senator from Ohio, the chairman of the committee, in his discussion of it was so impressed with this truth that all through his speech he called it a tax on property. I remember I was struck with his illustration. He says if the property of this country would only pay enough taxes to pay the pensions to the widows and orphans made by the war he would be satisfied, showing that in his view of it this tax is a direct tax upon property. That is my answer to my friend from Indiana. If it were a tax upon property, then apportionment must necessarily be made upon population.

But, sir, I go to a second illustration. The law professes to exempt all incomes under \$1,000, and this measure professes to exempt all incomes under \$2,000, at the same time that the law imposes a tax of five per cent. upon the interest that shall be paid upon coupons on all corporate bonds; upon the dividends declared by all banks, corporations, canal, railroad, insurance companies, &c.; and I ask the attention of the Senator from Ohio to this point, in view of the enunciation which he made yesterday that there was no judicial tribunal in the land that would sustain the constitutionality of this tax, if we would take off the tax on the personal incomes and impose it upon the incomes of corporations.

Now, sir, while the law professes thus to exempt \$1,000 under the old law, and \$2,000 under this, what is its practical operation? The officers of those corporations are bound to deduct the tax when they pay the interest or dividends, and they have no means of knowing what the income of the recipient is, and can make no deduction if they did. It matters not whether it is \$20,000 or twenty dollars. Take now the large number of persons who have their annuities in bank stock, in railroad bonds, in insurance companies, where they have paid to them by the officers of those companies annually a certain sum secured for their support.

Let me mention a case which is not an imaginary one. Under this operation of the law there is a family which has its whole income of \$600 in the bonds of a corporation in my State, the North Pennsylvania Railroad Company. The State of Pennsylvania, following the example of the United States, imposed also a tax of five per cent. upon the interest upon coupons in that State which had been previously exempt. When that family present their coupons at the office of the railroad company five per cent. is taken out for the State and five per cent. United States tax, making thirty dollars paid in support of the national Government by that family whose income is only \$600. Alongside of them reside a family that have exactly the same income secured by a bond and mortgage on real estate for \$10,000. They get \$600 upon that. Of the two families realizing exactly the same income, and dependent upon those incomes for support, the one pays thirty dollars to the Government and the other pays not one cent. Call that equality of taxation! Call that uniformity of taxation! What becomes of the principle that my friend from Ohio enunciated yesterday? That I may not do him injustice in calling attention to it, I will read from the Globe the report of his speech:

"The Senator from New York seemed to suggest the keeping of an income tax on corporations and yet striking out the tax on personal income. In my judgment, under the Constitution of the United States, we should have no right to discriminate in that way. If that position be true, then we may levy an income tax solely on the income derived from United States bonds, or from railroad corporations, or any other form of investment. An income tax must be, in the language of the Constitution, general in its character, covering all incomes, from whatever source derived, of certain amounts, with proper limitations; it must be coextensive with the subject of income. If any other idea should prevail it would be in the power of a majority of Congress to aim a discriminating tax against the industry of a particular section and thus avoid the very foundation of the Constitution, which requires equal, just, and fair taxes—taxes applying to all alike. Now, to levy a tax upon a corporation, or the proceeds of a corporation, the income of a corporation, at a greater rate or greater amount than on the income of some other business, would be, in my judgment, clearly unconstitutional."

And yet here are two families, the one having an income from corporate bonds and the other having an income from bonds secured on real estate; and the tax is imposed on the one and the other is exempt.

Mr. SHERMAN. If my friend will allow me I will state that the injustice to which he refers—and indeed he cannot state it too strongly—has always been opposed and condemned by me. There is no reason in the world why an income derived from corporations ought not to enter into the general return of income, just as we now propose to allow the salaries of public officers to be. But when this subject of the income tax was up in the Senate years ago it was deemed so vitally necessary to secure the whole income derived from corporations directly

from the corporations, that the principle of justice which the Senator fairly states was overridden. And even now I may state, without violating any secrecy, that I proposed, and I should be glad if the Senate would adopt, a suggestion requiring the income of corporations to be returned as general income; but the objection was made in committee, and no doubt will be made here, that it would complicate the matter and probably defeat the collection of this portion of the income tax. But the inequality does not go to the rate. No one has ever proposed to levy a higher rate on incomes from corporations than upon personal income. The injustice which the Senator now points out only applies to the application of the exemption and not to the application of the income tax proper.

Mr. SCOTT. Having entertained those views, I am very sorry that the chairman of the Committee on Finance has not reported some measure which would grant the needed relief to this very large class of persons who do suffer. And I think it will not be much gratification to those who are compelled to pay this tax to be told that there is not a difference in the rate, when they feel that the difference between them in the rate which is imposed on them and others is just the difference between five per cent. and nothing. That is the difference between the rate which is paid by these persons in the same class. I shall have an amendment to offer which I hope will remedy this injustice, if this tax is to be continued; but only in that contingency shall I offer it.

Now, sir, in this connection I wish to read all that the Senator from Ohio said on that subject. He was interrupted by the Senator from Oregon, and replied in the following language:

"Mr. CORBETT. You exempt \$1,000 of income.
"Mr. SHERMAN. Certainly; but we exempt \$1,000 derived from all incomes. If the idea is that you can gild over this dose by repealing the tax on personal income, leaving the tax on the income from bonds of railroad or other companies and incomes from corporation stocks, Senators may as well abandon the idea; it could not be entertained in any judicial tribunal in the United States."

Well, sir, if that doctrine be true, then the discrimination to which I have called attention is just as fatal to this law as the discrimination to which his attention was called by the Senator from New York. But, sir, on this point it is alleged that this tax operates upon the rich and not upon the poor; that it is a tax paid by corporations. It is not a tax paid by corporations; and even if it were, I always distrust that it is not solid ground upon which any legislator is standing when I hear him justify any measure by an appeal either to the rich or to the poor, arraying them against each other. It always brings to my mind that favorite saying of Mirabeau, "that the Capitol is

near to the Tarpeian rock;" and I always think when we begin to look upon the effect of our legislation upon rich or upon poor, that we would be better employed in looking at the right, the justice of the principle embodied in our legislation.

The safety of the poor man in this Government is the justice of the principle embodied in all measures of legislation. If you may discriminate for him you may discriminate against him; and perhaps it will not be long, if we go on at this rate, basing our legislation upon the ground that we intend to impose the burdens of the Government upon the rich and exempt the poor from them, until some man may be found bold enough to claim that that doctrine shall be carried to its logical consequences, and that if the rich pay all the taxes taxation and representation shall go together. Is there any man here willing to advance that doctrine now? And yet the poor man who is appealed to for the purpose of imposing this tax upon others because they are rich, had better look to the ground upon which that principle of taxation shall be established. We had better trust to his intelligence and sense of justice and do right, than fear that his indignation over a just measure may be swelled into a Tarpeian rock, from which the occupants of the Capitol may be thrown."

Now, sir, to show that this tax does not operate upon the rich altogether, I wish to read a letter that I have received. I do not believe in citing letters anonymously, and I therefore give the name of the gentleman, Peter Walker. He resides in Philadelphia, and is well known to me as a gentleman of character, connected with one of the religious publication houses of that city. He is a benevolent gentleman who gives a great deal of his time in attending to the business of those who are too poor to employ agents to attend to it; and I do not know that I can place this subject in a better light than by reading his whole letter. I send it to the desk and ask the Clerk to read it.

The Chief Clerk read the following letter:

348 SOUTH FIFTEENTH STREET,
PHILADELPHIA, January 15, 1870.

DEAR SIR: As the internal revenue laws will probably soon engage the attention of Congress, permit me to call your attention to the tax on dividends. It is a tax on income, but while its payment is credited to the rich man it is irremediably taken from the invested means of the industrious poor. I have for many years collected dividends for a few people unaccustomed to do business for themselves; and I will state their case, and every one will see that there are thousands in the same circumstances:

1. R. An aged widow, family all married, lives by passing from the house of one child to another as they are willing to entertain her. A son-in-law left her an annuity of seventy dollars a year in good stock to provide her with clothing, &c. Out of this \$3.50 is retained by the United States tax.

2. H. A widow, with one daughter aged fifteen. Sole income from bonds and stocks \$240 a year. Out of this twelve dollars is retained as United States tax.

3. E. An aged lady, all her property invested in railroad bonds, receives in yearly interest \$560, but out of this twenty-eight dollars is retained as United States tax.

4. J. An infirm lady; property invested in stocks and bonds; annual income \$600, but out of this there is retained by the United States thirty dollars.

The evil does not rest here. The State of Pennsylvania, instead of passing by an article on which the United States has levied as much as it would bear, has followed its example and placed an equal amount of tax on the same dividends. Ten per cent. is now taken from the income of people who are only able to sustain life, and some of whom are supported mainly by the charity of others. If the United States would abolish the tax on dividends Pennsylvania would again, it is probable, follow her example.

This tax does not act injuriously on interest alone. The principal of all these investments is now twenty per cent. lower in value than when I began to collect for them.

The manner of collecting this tax hides its rapacity. It is called a tax on dividends; it is retained by the companies who are wealthy and managed by wealthy men. The persons from whom it is retained are in general never seen; they are widows, orphan children, persons who are incapacitated by age or infirmity from employing their capital in active business operations, but who, by such investments, are enabled to sustain themselves without being a burden to the community. From the sums I see upon the books of the corporations I visit I feel conscious that these are the people who pay the tax on dividends, and I pray you, my dear sir, to exert your influence for their relief, and by doing so you will much gratify

Your obedient servant,

PETER WALKER.

Hon. JOHN SCOTT, *Senator for Pennsylvania.*

Mr. SCOTT. Now, Mr. President, this is one class of fixed incomes which the law professes to exempt, and which in reality are taxed more severely than any other class. It is a remarkable fact that the number of persons who pay this income tax is ostentatiously paraded as a reason why it should be continued, because there are so few pay it. I wish it to be borne in mind that the number embraced in the class to which that correspondent refers are not included in the two hundred and seventy thousand who paid income tax in 1869. That is only the number who paid the assessed income tax. The taxes collected by corporations are given in the gross, and therefore the aggregate number of the small stockholders who pay in the way to which Mr. Walker refers are not included in the number at all; and I am assured by those conversant with the institutions of this character in the large cities that the number of poor with an income under \$1,000 who pay the income tax in this form actually exceeds the number of the rich who are paraded as paying the tax. So that, if it comes down to numbers, there are more poor people paying the tax upon incomes under \$1,000 than there are rich men paying the tax on incomes over \$1,000. Their contributions do not amount to as much, but in number they are more. If their names were published the feeling of hostility to this tax might be better understood.

Now, sir, I proceed further. It is alleged

that this is a tax upon profits, upon realized value. This is the statement of the Commissioner of Internal Revenue. The statement of the Special Commissioner is that it is a tax upon profits. Sir, it is neither. It reaches the poor, toiling country clergyman, who is living on perhaps \$1,500 a year, or \$2,000, who is endeavoring to educate a son at college, who perhaps has to pay a large portion of his salary for the medical attendance of his family. It reaches the preacher; it reaches the teacher; it reaches the mechanic, (for there are hundreds of them with salaries over \$1,000 a year,) and is a tax upon industry, a tax upon toil; and more than that, if you look at it in its operations, it is really a tax upon the number of children that a man has. He is actually taxed upon the number of his children, because the form which is put in his hand for the purpose of returning his income, as I shall show when I come to discuss it, compels him to put into the return of his income any salary that is made by his minor children; and yet the man who simply maintains a wife without children, or a wife and one child, has the same exemption with the man who has a wife and ten children; and that, too, whether he is living in the city of New York or Washington, where \$1,000 will not go as far in maintaining them as \$500 will in the State of Ohio or Indiana. In these instances you put your tax upon men who have expended all their income, and at the end of the year have nothing left. They have expended their income in the necessary maintenance and education of their families, and then you come at the end of the year asking them for a tax on realized wealth. Sir, it is a sarcasm; and no wonder that the iron has entered deeply into the hearts of those classes who feel that they have been oppressed by this income tax.

Mr. President, this tax is onerous, it is burdensome, it is demoralizing. Let us look at it. In this great and growing country it ought to be increasing very rapidly. What are the facts? In 1866, when there was an exemption of \$600, there was collected \$60,894,135 85. In 1867, with an exemption of \$1,000, there was collected \$57,040,640 67. In 1868, with an exemption of \$1,000, it fell to \$52,027,610 78. In 1869, with the same exemption and increased efficiency in collection, there was collected \$34,239,893 38. In 1866 it was paid by 460,170 persons; in 1867, by 259,385 persons; in 1868, by about two hundred and forty thousand persons; and in 1869, I believe, by two hundred and seventy-one thousand persons. If you add the class that I have referred to it will probably double the number.

But, sir, the number itself is the very best evidence of the demoralizing character and tendency of the tax. Take up the return of the Commissioner of Internal Revenue, and you will find that a tax of twenty dollars and

under was paid by one hundred and seven thousand nine hundred and sixty-seven persons. That is on an income of \$1,400, and less. Does any sane man believe, can he sit down and look at this country, from the Atlantic to the Pacific and from Maine to Florida, and say that there are only one hundred and seven thousand nine hundred and sixty-seven persons in the United States who enjoy an income not exceeding \$1,400? The very statement itself is the best evidence of the demoralizing tendency of the tax. Every man sets himself to work to cipher himself out poor, and when he sets out with that determination he generally accomplishes the result.

But, sir, the excessive rate of the tax in our country is calculated to make it more demoralizing. The rate is five per cent. Let me call attention to that for a few moments. The Year Book of 1869 estimates the British income tax at £6,900,000, equal to \$34,450,000. Our income tax for 1869, I have already stated, was \$34,671,791. In his annual report Commissioner Wells estimates the real and personal estate of Great Britain, in 1868 and 1869, at \$30,000,000,000; in the United States at \$23,400,000,000. He estimates the annual product of Great Britain at \$4,070,000,000 gross and \$2,750,000,000 net. This would give \$1,000 of principal and \$134 of gross product to each person in the British population of 30,380,000; while, taking the gross product as estimated by him in the United States, it gives \$600 in currency to each one of our estimated population of thirty-nine millions. And yet, here comes the point: with that average of \$600, gross product, to every person in our country in currency, our people pay as much income tax on \$23,000,000,000 as Great Britain does on \$30,000,000,000, and we do not include, as she does, the house rate of one and two thirds per cent.; so that our tax is beyond all proportion excessive over that of Great Britain.

Now, sir, what is the effect of this excessive taxation? Let us look at the country that is referred to in illustration and in vindication of this income tax. I send to the Clerk a statement which I have clipped from a reliable paper, giving the result of the income return of England for the year 1868-69, and giving the remarkable percentage of actual fraud which is developed by an examination of those returns. I ask the Clerk to read the short extract which I send to the desk.

The Chief Clerk read as follows:

"The income returns of England have just been submitted to Parliament for the year ending March 31, 1869. The revenue of the Government from incomes during the year ending March 31, 1868, amounted to £6,184,166, about thirty-one million dollars, or \$10,500,000 less than the revenue derived from the same source by the United States in 1868. Included in the income return of England were the assessments on 'houses' in the fiscal year 1866-67, amounting to £1,384,000. The exempted incomes in

1866-67 reached £13,572,000, on which the tax, at fourpence on the pound, or one and two thirds per cent., would have amounted to £226,199. Concerning frauds upon the revenue the report says that out of two hundred cases inquired into it was found that in eighty cases the revenue had been defrauded forty per cent. The aggregate of the taxable incomes returned by the parties themselves was £73,642, and the amount ultimately found to be correct was £171,370, being in excess of the returns by £97,728, or about one hundred and thirty per cent.

"The report also says: 'These deficiencies are not confined to any particular class, trade, or profession; we find it among legal practitioners, we find it in every variety of trade, and we find it in great public companies, and in firms whose business is almost a national concern, from its magnitude and world-wide reputation. We see no reason to distrust this estimate, that forty per cent. of the persons assessed had understated their incomes, and that a true return would give an addition of one hundred and thirty per cent. We beg leave to call attention to the following extract from a long list of defective returns from public companies and large joint stock associations:

No.	Return.	Assessments.
1.....	£2,000	£39,500
2.....	9,000	38,000
3.....	55,000	81,000
4.....	23,284	45,984
5.....	2,000	12,600
6.....	16,250	24,492
7.....	1,600	12,000
8.....	5,000	30,000
9.....	39,300	52,000
10.....	14,674	55,000
11.....	140,465	186,539
12.....	No return.	63,949

"The real significance of the subtraction of such a large sum? * * * is best brought home to us when we remember that the exemption of one man means the extra taxation of another."

Mr. SCOTT. The purport of all those enormous frauds which are exposed by those returns is summed up in that sentence, that the significance of them consists in the fact that the honest men of the country pay the tax of the dishonest, of those who refuse to return their income, or evade the tax by fraud. Any one who will sit down and look at the interrogatories which are propounded in the forms in which our citizens are required to make their returns of income tax, will not wonder that there is an effort to evade it, and a feeling of great restiveness under this administration of the tax law. After a man has made out his whole returns, after he has gone over his books, if he has kept any, or conjured up his brain, if he has not, to make an estimate, after he has gone and counted his spoons and everything else of that character that he is required to do in order to make a return under this income tax law as it is administered, then this is the instruction to the assessor:

"Assessors should require answers to be written opposite each of these questions:

"Have your wife any income last year?"
 "Did any minor child of yours receive any salary last year?"

Showing, as I have said, that that is to be embraced in the income return with no credit for his maintenance.

"Have you included in this return the income of your wife, and salary received by minor children?"

Implying that the tax-payer has these incomes and has concealed them. First you ask him whether he had any income, and then if his wife had any income, and whether he had included that, and then going on as follows:

"Have you any stocks, and what are they?"
 "Have you bought or sold stocks or other property?"

"Have you any United States securities?"
 "Have you given or transferred to any child or children of yours, or to any other person or persons, the income, gains, or profits, or any part of the income, gains, or profits arising during the year 1869 from stocks, bonds, or other securities, or from any source whatever?"

"Is such income included in the foregoing return?"
 "Have you transferred any stocks, bonds, or other securities, or any other property, or the interest or other gains or profits arising therefrom during the year 1869 for the purpose of diminishing your own taxable income, and if so when and to whom?"

"Have you kept any book account?"
 "Is your income estimated, or taken from your books?"

"Have any of the deductions claimed in your return already been taken out of the amount reported as profits?"

"Did you estimate any portion of your profits in making your return for previous years?"
 "Was any portion treated as worthless, and, if since paid, have you included it in this return?"

The administration of the law is based on the assumption that every man who is called upon to pay this tax is dishonest. This form has been sent out giving every man who reads it notice that he is suspected, and that notice coming from the Department will produce its legitimate results, and it has done it. Sir, I say to-day that this nation can better afford to do away with the thirty-four millions of money realized out of the income tax than it can to sow the seeds of demoralization among its people and sap that virtue which is the life of the Government itself. It is better economy to so administer our laws as to encourage virtue and uprightness rather than to lead the people into temptation. There is more wisdom in that prayer, "Lead us not into temptation," than there is in the whole income tax law from beginning to end. It is not founded on that prayer at all.

Now, Mr. President, this being the practical operations of the income tax law, it is no wonder that political economists have come to the conclusion that they have in relation to it. John Stuart Mill, in his Principles of Political Economy, page 500, says:

"The tax, therefore, on whatever principles of equity it may be imposed, is in practice unequal in one of the worst ways, falling heaviest on the most conscientious.

"It is to be feared, therefore, that the fairness which belongs to the principle of an income tax cannot be made to attach to it in practice, and that this tax, while apparently the most just of all modes of raising a revenue, is in effect more unjust than many others which are *prima facie* more objectionable. The consideration would lead us to concur in the opinion which, until of late, has usually prevailed, that direct taxes on income should be reserved as an extraordinary resource for great national emergencies, in which the necessity of a large additional revenue overrules all objections."

Again, speaking of a graduated tax, similar to the income tax, he says:

"The objection to a graduated property tax applies in an aggravated degree to the proposition of an exclusive tax on what is called 'realized property'; that is, property not forming a part of any capital engaged in business, or rather in business under the superintendence of the owner, as land, the public funds, money lent on mortgage, and shares (I presume) in joint stock companies. Except the proposal of applying a sponge to the national debt, no such palpable violation of common honesty has found sufficient support in this country during the present generation to be regarded as within the domain of discussion. It has not the palliation of a graduated property tax, that of laying the burden on those best able to bear it; for 'realized property' includes the far larger portion of the provision made for those who are unable to work, and consists in great part of extremely small fractions. I can hardly conceive a more shameless pretension than that the major part of the property of the country, that of merchants, manufacturers, farmers, and shop-keepers, should be exempted from its share of taxation; that these classes should only begin to pay their proportion after retiring from business, and if they never retire should be excused from it altogether.

"But even this does not give an adequate idea of the injustice of the proposition. The burden thus exclusively thrown on the owners of the smaller portion of the wealth of the community would not even be a burden on that class of persons in perpetual succession, but would fall exclusively on those who happened to compose it when the tax was laid on. As land and those particular securities would thenceforth yield a smaller net income relatively to the general interest of capital and to the profits of trade, the balance would rectify itself by a permanent depreciation of those kinds of property. Future buyers would acquire land and securities at a reduction of price equivalent to the peculiar tax, which tax they would, therefore, escape from paying; while the original possessors would remain burdened with it even after parting with the property, since they would have sold their land or securities at a loss of value equivalent to the fee-simple of the tax. Its imposition would thus be tantamount to the confiscation for public uses of a percentage of their property equal to the percentage laid on their income by the tax. That such a proposition should find any favor is a striking instance of the want of conscience in matters of taxation, resulting from the absence of any fixed principles in the public mind and of any indication of a sense of justice on the subject in the general conduct of Governments. Should the scheme ever enlist a large party in its support the fact would indicate a laxity of pecuniary integrity in national affairs scarcely inferior to American repudiation."

Thus much for the opinion of an English political economist, which, however, I do not value as much as I do the experience of the men who have suffered under the administration of this law.

Now, sir, I have endeavored to show that this law is of doubtful constitutionality. I have endeavored to show that it is not uniform in its operation either on the population, on valuation, or on representation. I have undertaken to show its demoralizing effect; that it is excessive; that it is impolitic; that it is unwise. All these results have been borne by the people almost without a murmur, because they looked forward to the day of deliverance.

The Senator from Ohio took occasion to remark that there was no contract in the law which bound Congress. Of course there was no contract in the law which prevents

this Congress from exercising its power. It is not a question of power. Taxation is an attribute of sovereignty. We could not part with it if we would. We could not even for a consideration, as it has been decided in some of the States, part with the general power of taxation; and if there had been incorporated into that law a provision that parted with our power of ever reimposing the tax, of course it would not have been binding. But, sir, remembering that taxation is an attribute of sovereignty, is there any other law on the statute-book of this country, or in any other country exercising this eminent attribute of sovereignty, which contains in it an apology for the exercise, and a promise not so to exercise it again?

The authors of this law knew that it was a war tax; and when they said it was a war tax they meant a tax necessary to enable us to go on with the war, not a tax to be continued after we got through with the war. That was the sense in which it was a war tax; and in the law twice repeated is the hope held out to the people, "Pay this tax until 1870, and you shall pay it no longer." Now, sir, I am sorry to say it, but I must in candor say, that the Government committed a great indiscretion in violating that promise, and in doing it in such a way as, upon the doctrine of the Senator from Ohio, was a clear violation of the Constitution. The personal income tax expired beyond all question in 1870. The only question that could be made—and there was none in that worth making—was, whether the special tax upon dividends and upon interest continued after 1870; and if that were true, then the continuance of that tax, according to the authority of the Senator from Ohio, was unconstitutional. But with that very grave doubt resting upon it, notwithstanding the promise to the people that the income tax should cease in 1870, the Government has gone on and has collected the tax upon salaries and dividends, and are now in the courts awaiting adjudication on the question whether they had a right to do so or not.

Mr. CONKLING. You mean the executive department.

Mr. SCOTT. I mean, of course, that part of the Government intrusted with the administration of the law. They did it honestly, I have no doubt. They felt that there was a necessity for revenue, and they desired to go on with it. But it would have been better for the Government if that law had been kept literally with the people, and the question of its continuance had been left to be settled by the popular voice.

Now, sir, these features of the law to which I have called attention have made the people restive. There is another, to which I merely advert, namely, the clear violation of the Constitution in not exempting the salaries of

United States judges and the President of the United States. The Constitution provides that their salaries shall not be diminished during their continuance in office. If we can tax them five per cent. we can tax them twenty, and thus take away their salaries and destroy the independence of the judiciary. All this is being violated. The judiciary, to their honor be it said, have never sent up a case to be tried. The people have paid this tax, and now that the promised day of deliverance has come they demand fulfillment of that promise.

Has there been a petition presented—if so, I have not heard it—for the reimposition of the income tax? I have heard many of them presented against its reimposition. I have presented many of them myself, though I do not know why it is that the reports of the Associated Press, as a general rule, do not contain the presentation of these petitions, especially when they come from Philadelphia. I do not know why that is; but I have presented many of them; and from the rural counties of my Commonwealth I have received very many letters, all asking me that this tax shall be removed, while I have not received one for its reimposition. This, then, is the demand of the people.

I had intended to say something about it not being necessary to reimpose the tax; but this bill will bring that question up in other aspects, and I refrain from trespassing further on the time of the Senate.

Mr. President, I have made these remarks, not for the purpose of occupying any space in the Congressional Globe, but because in honesty and in conscience I believe that this Government cannot afford to reimpose this income tax. We must keep faith with the people. They expect us to keep faith with them; and it is a gratifying fact to know that we can keep faith with them, and still keep on paying at least \$50,000,000 a year of the national debt without this income tax. I know that the tax-gatherer, and it has always been so from the day when the Saviour was reproached for sitting down with publicans and sinners—the tax-gatherer has never been welcome.

But, sir, there are numerous forms of taxes which will be uniform, which will be equal, which will bear on property; and again I say that I protest against any system of taxation which is at war with that principle we have been taught to revere as the foundation-stone upon which this Republic was built—that taxation and representation should go together. I protest against any law containing a principle which, carried to its logical results, will justify any man in saying that those who pay the largest amount of taxes should claim the largest amount of the representation of the country. These views I honestly entertain, and I present them, hoping that the sense of the Senate will be that this income tax can be dispensed with and must be abolished.



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